

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

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In The Matter Of:

The Honorable Frank V. LaSalata,  
King County District Court Judge

CJC No. 6279-F-149

**STIPULATION, AGREEMENT  
AND ORDER OF ADMONISHMENT**

The Washington State Commission on Judicial Conduct ("Commission") and the Honorable Frank V. LaSalata, Judge of the King County District Court ("Respondent"), stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until accepted by the Commission.

**I. STIPULATED FACTS**

1. Respondent is now, and was at all times referred to in this document, a judge of the King County District Court. He has served in that capacity since 2007.

2. On October 15, 2009, Respondent presided over a sentencing hearing of a defendant who had previously pleaded guilty to DUI. During that proceeding, a young deputy prosecuting attorney, then a Rule 9 intern<sup>1</sup> for the prosecutor's office, informed the Respondent that the defendant had been arrested for a new driving offense since the date he entered his plea. The prosecutor mistakenly added that the new law violation would be a "violation of the terms and conditions of sentence." Respondent pointed out, "Well, no, sentence hasn't been imposed yet. It wouldn't violate . . . ." Before Respondent finished his sentence, the prosecutor corrected herself and acquiesced, "terms and

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<sup>1/</sup> Admitted under a limited practice rule for attorneys, qualified law students may perform the limited practice of law under the supervision of a fully admitted attorney.

1 conditions of release." At that point, Respondent announced, "Let's sidebar." He then  
2 directed the prosecutor and the defendant's attorney into a hallway behind the courtroom.  
3 Both attorneys told Commission investigators they had no idea what spurred the request  
4 at the time. The calendar seemed unremarkable to them up to that point.

5 3. Outside the courtroom, in the private setting of the hallway, Respondent  
6 confronted the deputy prosecutor. According to her and to the defense attorney who was  
7 present, Respondent appeared angry, and while in close physical proximity to the deputy  
8 prosecutor, who is considerably smaller in stature, Respondent threatened that if she  
9 interrupted him again, he would "rip her head off." Respondent, on the other hand, recalls  
10 telling the deputy prosecutor in a firm, but calm, manner that her continued courtroom  
11 interruptions made him want to "verbally rip her head off." While there may be  
12 disagreement as to what was precisely said, and as to the tone and manner in which it  
13 was said, Respondent accepts his responsibility under the Code of Judicial Conduct and  
14 agrees to this stipulation. Respondent's actions and demeanor understandably stunned  
15 both counsel and frightened the deputy prosecutor. Respondent apologized to her at the  
16 time and stressed that he did not intend to threaten her. Respondent recognized then,  
17 as he does now, that his choice of words and demeanor were inappropriate and could  
18 reasonably cause alarm to the deputy prosecutor. Respondent regrets allowing his  
19 frustration to manifest itself in the injudicious manner identified herein.

## 20 21 II. AGREEMENT

### 22 A. Respondent Violated the Code of Judicial Conduct

23 1. Based upon the foregoing stipulated facts, Respondent and the  
24 Commission agree Respondent violated Canons 1, 2(A) and 3(A)(3) of the Code of  
25 Judicial Conduct.<sup>2</sup>

26  
27 <sup>2/</sup> Canon 1 of the Code of Judicial Conduct provides, "Judges shall uphold the integrity and independence  
28 of the judiciary." Canon 2 provides, "Judges should avoid impropriety and the appearance of impropriety in all  
their activities," and Canon 2(A) specifies, "Judges should respect and comply with the law and should act at all

1           2.       Canons 1 and 2(A) require judges to uphold the integrity of the judiciary by  
2 avoiding impropriety and the appearance of impropriety and by acting at all times in a  
3 manner that promotes public confidence in the integrity and impartiality of the judiciary.  
4 Discourteous and intolerant behavior by a judge in the judge's official capacity erodes the  
5 public's confidence in the impartiality and integrity of the judicial system.

6           3.       Canon 3(A)(3) requires judges to be patient, dignified and courteous to all  
7 persons with whom judges deal in their official capacity. Respondent has explained that  
8 the intemperate behavior described above resulted from his frustration with what he  
9 perceived as interrupting or discourteous conduct of an attorney. Canon 3(A)(3) imposes  
10 a duty on Respondent as a judicial officer, however, to exercise restraint in the manner  
11 in which he manifests anger or frustration. Threatening to physically harm someone  
12 during a court proceeding can never be justified and such conduct was certainly not  
13 objectively justified on this record. Moreover, while judges may experience day to day  
14 frustrations and must control their courtrooms to minimize disruption of court proceedings,  
15 they must do so consistently with the requirements of the Code of Judicial Conduct.

16           **B.       Imposition of Sanction**

17           1.       The sanction imposed by the Commission must be commensurate to the  
18 level of Respondent's culpability and must be sufficient to restore and maintain the dignity  
19 and honor of the judicial position. The sanction should also seek to protect the public by  
20 assuring that Respondent and other judges will refrain from similar acts of misconduct in  
21 the future.

22           2.       In entering this stipulation, the Commission has carefully considered the  
23 factors set out in CJCRP 6(c).

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26 times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 3  
27 provides, "Judges shall perform the duties of their office impartially and diligently;" and Canon 3(A)(3) specifies,  
28 "Judges should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom  
judges deal in their official capacity, and should require similar conduct of lawyers, and of the staff, court officials  
and others subject to their direction and control."

1           A.     Characteristics of Respondent's Misconduct. Although off the  
2 record, Respondent's intemperate behavior occurred while he was acting in his official  
3 judicial capacity. Such behavior by a judge invariably erodes public respect for the  
4 judiciary. Even though this was a relatively private incident, many people in the local legal  
5 community have learned of it – as a highly visible symbol of the justice system, a judge  
6 should accordingly set a high standard for their own behavior, and should expect such an  
7 incident to be the subject of discussion in the court community. Finally, Respondent's  
8 actions were injurious to others, in that intimidating an attorney who is required to regularly  
9 appear in a judge's court (particularly a Rule 9 intern) could inhibit that lawyer's ability to  
10 properly perform her job. In mitigation, this was a discrete incident. There is no  
11 evidence of a regular pattern of similar behavior. The conduct was reactive, not  
12 deliberative, and was confined to the particular situation before the court.  
13 Respondent did not intentionally or flagrantly transgress his oath of office, and he did  
14 not exploit his office for personal gain.

15           B.     Service and Demeanor of Respondent. By entering into this  
16 stipulation, Respondent has acknowledged that the acts occurred and that his  
17 conduct was inappropriate. He has cooperated with the Commission's investigation.  
18 Respondent has been a full time judicial officer for three years and, prior to becoming  
19 a full time judge, he frequently served as a judge pro tem. He has not been  
20 previously sanctioned by the Commission.

21           3.     Based upon the stipulated facts, upon consideration and balancing of  
22 the above factors, Respondent and the Commission agree that Respondent's  
23 stipulated misconduct shall be sanctioned by the imposition of an admonishment. An  
24 "admonishment" is a written action of the Commission of an advisory nature that  
25 cautions a respondent not to engage in certain proscribed behavior and may include  
26 a requirement that the respondent follow a specified corrective course of action. An  
27 "admonishment" is the least severe disciplinary action available to the Commission.

1           4.     Respondent agrees that he will not repeat such conduct in the future,  
2 mindful of the potential threat any repetition of his conduct poses to public confidence  
3 in the integrity and impartiality of the judiciary and to the administration of justice.

4           5.     Respondent agrees that he will promptly read and familiarize himself  
5 again with the Code of Judicial Conduct in its entirety and provide the Commission  
6 with confirmation of this fact within one month of the date of entry of this stipulation,  
7 agreement and order.

8     Standard Additional Terms and Conditions

9           6.     Respondent agrees that by entering into this stipulation and agreement,  
10 he waives his procedural rights and appeal rights in this proceeding pursuant to the  
11 Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the  
12 Washington State Constitution.

13          7.     Respondent further agrees that he will not retaliate against any person  
14 known or suspected to have cooperated with the Commission, or otherwise  
15 associated with this matter.


16          8.     Respondent has been represented in this proceeding by attorney Anne  
17 Bremner. Respondent affirms he enters into this stipulation and agreement after  
18 having had an opportunity to consult with his counsel.

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22           Hon. Frank LaSalata

          9/13/10  
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          Date

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25           Anne M. Bremner

          9/20/10  
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          Date

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27           J. Reiko Callner  
28           Executive Director of the  
          Commission on Judicial Conduct

          9/23/10  
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**ORDER OF ADMONISHMENT**

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Frank V. LaSalata, ADMONISHED for the above set forth violations of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 24 day of September, 2010

  
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John Sleeter, Chair  
Commission on Judicial Conduct